

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SYNCA DIRECT, INC.,

Plaintiff and Counterclaim Defendant, Case No.: 07-CV-6030 WHP)(GWG)

-against-

AFFIDAVIT OF JOSEPH K. POE

MULTIMEDIA DENTAL SYSTEMS, INC.,

Defendant and Counterclaim Plaintiff,

-against-

SYNCA and JOHN DOES 1-5,

Additional Counterclaim Defendants.

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STATE OF NEW YORK)
) ss.:
COUNTY OF NASSAU)

Joseph K. Poe, being duly sworn, deposes and says:

1. I am a member of the Bar of this Court and am a member of the firm Rivkin Radler LLP, attorneys for the Defendant and Counterclaim Plaintiff, Multimedia Dental Systems, Inc. ("MMD") in the above-entitled action and I am familiar with all the facts and circumstances in this action.

2. I make this affidavit in accordance with Rule 55(a), Fed. R. Civ. P., and L.R. 55.1, in support of MMD's application for the issuance of a clerk's certificate

of default against the additional counterclaim defendants, Synca, a/k/a Synca Marketing, Inc., a Quebec corporation.

3. This action was commenced on October 18, 2006, by the filing of the Summons and Complaint in the Northern District of New York. The index number assigned was 06-CV-1263 (LEK/DRH).

4. On November 22, 2006, MMD filed an Answer and Counterclaim.

4. On November 29, 2006, a Summons for the Counterclaim was issued as to the Additional Counterclaim Defendants, Synca and John Does 1-5.

5. On March 8, 2007, the Additional Counterclaim Defendant, Synca was properly served with the Summons, Answer and Counterclaim pursuant to the Hague Convention. The proofs of service were filed on March 23 and 30, 2007. Attached as Exhibit "A" is a copy of the Certificate of Service.

6. On June 19, 2007, a Stipulation to Transfer Venue to the Southern District of New York was submitted to the Court and 'so ordered' by Magistrate Judge David R. Homer. The case was transferred to the Southern District of New York on July 23, 2007 and assigned case number 07-CV-6030 (WHP/GWG).

7. The Additional Counterclaim Defendant, Synca, has failed to appear in this action or respond to the Counterclaim. The time for Additional Counterclaim Defendant, Synca, to appear, answer or otherwise respond to the counterclaim has expired.

8. The Additional Counterclaim Defendant, Synca, is not an infant, in the military, or an incompetent person.

WHEREFORE, defendant and counterclaim plaintiff, Multimedia Dental Systems, Inc. request the issuance of a clerk's certificate of Default against additional counterclaim defendants, Synca.



Joseph K. Poe

Sworn to before me this
13rd day of September, 2007.



Notary Public

THERESA A. MCCOLGAN
Notary Public, State of New York
No. 01MC4896721
Qualified in Suffolk County
Commission Expires May 26, 2011